

CALIFORNIA GOVERNMENT CODE
CHAPTER 2.2.
CALIFORNIA TOURISM MARKETING ACT
(Margin notes provided by California Division of Tourism)

Article 1. Legislative Intent	15372.60. This chapter shall be known and may be cited as the California Tourism Marketing Act.
	15372.61. The Legislature hereby finds and declares all of the following:
\$52 billion	a. Tourism is among California's biggest industries, contributing over fifty-two billion dollars (\$52,000,000,000) to the state economy and employing nearly 700,000 Californians in 1995.
Need to market	b. In order to retain and expand the tourism industry in California, it is necessary to market travel to and within California.
State funding not sufficient	c. State funding, while an important component of marketing, has been unable to generate sufficient funds to meet the threshold levels of funding necessary to reverse recent losses of California's tourism market share.
Cooperative partnership	d. In regard to the need for a cooperative partnership between business and industry:
State's public interest	1. It is in the state's public interest and vital to the welfare of the state's economy to expand the market for, and develop, California tourism through a cooperative partnership funded in part by the state that will allow generic promotion and communication programs.
Expand tourism	2. The mechanism established by this chapter is intended to play a unique role in advancing the opportunity to expand tourism in California, and it is intended to increase the opportunity for tourism to the benefit of the tourism industry and the consumers of the State of California.
Complement individual competitors	3. Programs implemented pursuant to this chapter are intended to complement the marketing activities of individual competitors within the tourism industry.
Benefit businesses of all sizes	4. While it is recognized that smaller businesses participating in the tourism market often lack the resources or market power to conduct these activities on their own, the programs are intended to be of benefit to businesses of all sizes.
Programs do not impede right of individual businesses	5. These programs are not intended to, and they do not, impede the right or ability of individual businesses to conduct activities designed to increase the tourism market generally or their own respective shares of the California tourism market, and nothing in the mechanism established by this chapter shall prevent an individual business or participant in the industry from seeking to expand its market through alternative or complementary means, or both.
Individual advertising increases own share of market	6. (A) An individual business's own advertising initiatives are typically designed to increase its share of the California tourism market rather than to increase or expand the overall size of that market.
Increases demand for CA tourism	(B) In contrast, generic promotion of California as a tourism destination is intended and designed to maintain or increase the overall demand for California tourism and to maintain or increase the size of that market, often by utilizing promotional methods and techniques that individual businesses typically are unable, or have no incentive, to employ.
Fund in generic promotions	7. This chapter creates a mechanism to fund generic promotions that, pursuant to the required supervision and oversight of the secretary as specified in this chapter, further specific state governmental goals, as established by the Legislature, and result in a promotion program that produces nonideological and commercial communication that bears the characteristics of, and is entitled to all the privileges and protections of, government speech.

Programs implemented to strengthen industry	8. The programs implemented pursuant to this chapter shall be carried out in an effective and coordinated manner that is designed to strengthen the tourism industry and the state's economy as a whole.
Independent evaluation	9. Independent evaluation of the effectiveness of the programs will assist the Legislature in ensuring that the objectives of the programs as set out in this section are met.
Asses least amount per business	e. An industry-approved assessment provides a private-sector financing mechanism that, in partnership with state funding, will provide the amount of marketing necessary to increase tourism marketing expenditures by California. f. The goal of the assessments is to assess the least amount per business, in the least intrusive manner, spread across the greatest practical number of tourism industry segments.
Commission will target sufficient amount	g. The commission shall target an amount determined to be sufficient to market effectively travel and tourism to and within the state.
Commission will do the following:	h. In the course of developing its written marketing plan pursuant to Section 15372.75, the commission shall, to the maximum extent feasible, do both of the following:
Seek advice from all segments and regions	1. Seek advice and recommendations from all segments of California's travel and tourism industry and from all geographic regions of the state.
Harmonize plan with marketing objectives & regions	2. Harmonize, as appropriate, its marketing plan with the travel and tourism marketing activities and objectives of the various industry segments and geographic regions.
No more than 15% of funds to fund travel within CA without 2/3 vote	i. The commission's marketing budget shall be spent principally to bring travelers and tourists into the state. No more than 15 percent of the commission's assessed funds in any year shall be spent to promote travel within California, unless approved by at least two-thirds of the commissioners.
Article 2. Definitions	15372.65. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.
Appointed Commissioner	a. "Appointed Commissioner" means a commissioner appointed by the Governor.
Assessed Business	b. "Assessed business" means a person required to pay an assessment pursuant to this chapter, and until the first assessment is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation's board of directors is appointed by a public official or public entity, or serves on the corporation's board of directors by virtue of being elected to public office, or both.
Commission	c. "Commission" means the California Travel and Tourism Commission.
Elected Commissioner	d. "Elected Commissioner" means a commissioner elected pursuant to subdivision (d) of Section 15372.70.
Industry Category	e. "Industry category" means the following classifications within the tourism industry: <ol style="list-style-type: none"> 1. Accommodations. 2. Restaurants and retail. 3. Attractions and recreation. 4. Transportation and travel services.
Industry Segment	f. "Industry segment" means a portion of an industry category. For example, rental cars are an industry segment of the transportation and travel services industry category.
Office	g. "Office" means the Office of Tourism, also popularly referred to as the Division of

Person	Tourism, within the Trade and Commerce Agency. h. "Person" means an individual, public entity, firm, corporation, association, or any other business unit, whether operating on a for a profit or nonprofit basis.
Referendum	i. "Referendum" means any vote by mailed ballot of measures recommended by the commission and approved by the secretary pursuant to Section 15372.100, except for the initial referendum, which shall consist of measures contained in the selection committee report, discussed in Section 15372.66.
Secretary	j. "Secretary" means the Secretary of Trade and Commerce.
Selection Committee	k. "Selection Committee" means the Tourism Selection Committee described in Article 3 (commencing with Section 15372.66).

Article 3. Tourism Selection Committee

15372.66.

Governor appointed Tourism Selection Committee with 25 members (at least 6 from each segment)

a. The Governor shall appoint a Tourism Selection Committee based upon recommendations from established industry associations. The committee shall consist of 25 representatives, with no fewer than six from each industry category. In selecting the representatives, the Governor shall, to the extent possible, give recognition to the diversity within each industry category. The committee shall select a chairperson from among its members. The office shall provide staffing for the committee.

Convene on or before March 1. Within 150 days must issue report including:

b. The selection committee shall convene on or before March 1, 1996. Not later than 150 days following the initial convening of the committee, the committee shall issue a report listing the following:

1. Industry segments that will be included in the initial referendum.
2. The target assessment level for the initial referendum.
3. Percentage of funds to be levied against each industry category and segment. To the extent possible, the percentages shall be based upon quantifiable industry data, and amounts to be levied against industry segments shall bear an appropriate relationship to the benefit derived from travel and tourism by those industry segments.
4. Assessment methodology and rate of assessment within each industry segment, that may include, but is not limited to, a percentage of gross revenue or a per transaction charge.
5. Businesses, if any, within a segment to be assessed at a reduced rate, which may be set at zero, whether temporarily or permanently.
6. Initial slate of proposed elected commissioners. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

Zero assessment rate

c. Nothing in this section shall preclude the selection committee from setting the assessment rate for a business within a segment at a lower rate, which may be set at zero, than a rate applicable to other businesses within that segment if the selection committee makes specific findings that the lower rate should apply due to unique geographical, financial, or other circumstances affecting the business. No business for which a zero assessment rate is set pursuant to this subdivision shall be sent a ballot or entitled to participate in the initial referendum, or in any subsequent referendum in which its rate of assessment is set at zero.

Subcommittee shall prepare a recommendation for the entire Committee -

d. The committee members for each industry category, also referred to as a subcommittee, shall prepare a recommendation for the entire committee on how the items specified in subdivision (b) should be determined for the industry segments within their industry category. The recommendations shall not include a

Industry segment must be sufficiently defined	discussion of industry category levies, which shall be determined solely by the committee. In the event that the subcommittee cannot agree on one or more of the items specified in subdivision (b), no recommendation shall be given in that category. The recommendations shall be presented to the full committee, which shall address each of the items contained in subdivision (b).
Office's responsibility to advertise process and schedule public meetings for input	e. In order to be assessed, an industry segment must be defined with sufficient clarity to allow for the cost-effective identification of assessed businesses within that segment.
Recommendations approved by Secretary	f. It shall be the responsibility of the office to advertise widely the selection committee process and to schedule public meetings for potential assessed businesses to provide input to the selection committee.
Selection Committee exempt from Administrative Procedure Act	g. The recommendations developed by the committee pursuant to subdivision (b) shall be reviewed and approved by the secretary.
	h. The selection committee process and report are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).
Article 4. Commission.	15372.70.
Office shall establish California Travel and Tourism Commission	a. Upon approval of the initial referendum, the office shall establish a nonprofit mutual benefit corporation named the California Travel and Tourism Commission. The commission shall be under the direction of a board of commissioners, which shall function as the board of directors for purposes of the Nonprofit Corporation Law.
Board of Commissioners shall include	b. The board of commissioners shall consist of 37 commissioners comprising the following: <ol style="list-style-type: none"> 1. The secretary, who shall serve as chairperson. 2. Twelve members, who are professionally active in the tourism industry, representing each of the 12 officially designated tourism regions and diverse elements of the industry, shall be appointed by the Governor. Appointed commissioners are not limited to assessed businesses. 3. Twenty-four elected commissioners, including at least one representative of a travel agency or tour operator that is an assessed business.
Commission established pursuant to 15364.52 shall be inoperative	c. The commission established pursuant to Section 15364.52 shall be inoperative so long as the commission established pursuant to this section is in existence.
Commissioner election process	d. Elected commissioners shall be elected by industry category in a referendum. Regardless of the number of ballots received for a referendum, the nominee for each commissioner slot with the most weighted votes from assessed businesses within that industry category shall be elected commissioner. In the event that an elected commissioner resigns, dies, or is removed from office during his or her term, the commission shall appoint a replacement from the same industry category that the commissioner in question represented, and that commissioner shall fill the remaining term of the commissioner in question. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.
Secretary may remove a commissioner	e. The secretary may remove any elected commissioner following a hearing at which the commissioner is found guilty of abuse of office or moral turpitude.
No more than 2 consecutive terms	f. With the exception of the secretary, no commissioner shall serve for more than two consecutive terms.
Commissioner terms:	g. Except for the original commissioners, all commissioners shall serve four-year terms. One-half of the commissioners originally appointed or elected shall serve a two-year term, while the remainder shall serve a four-year term. Every two years thereafter, one-half of the commissioners shall be appointed or elected by

Commissioners nominate candidates	<p>referendum.</p> <p>h. The selection committee shall determine the initial slate of candidates for elected commissioners. Thereafter the commissioners, by adopted resolution, shall nominate a slate of candidates, and shall include any additional candidates complying with the procedure described in Section 15372.102.</p>
Elect a Vice Chairperson from commissioners	i. The commissioners shall elect a vice chairperson from the elected commissioners.
Office space	j. The commission may lease space from the office.
Representatives of CA tourism	k. The commission and the office shall be the official state representatives of California tourism.
All meetings in CA	l. All commission meetings shall be held in California.
No compensation - will receive reimbursement for expenses	m. No person shall receive compensation for serving as a commissioner, but each commissioner shall receive reimbursement for reasonable expenses incurred while on authorized commission business.
Businesses vote within their industry category	n. Assessed businesses shall vote only for commissioners representing their industry category.
Political Reform Act of 1974	o. Commissioners shall comply with the requirements of the Political Reform Act of 1974. The Legislature finds and declares that commissioners appointed or elected on the basis of membership in a particular tourism segment are appointed or elected to represent and serve the economic interests of those tourism segments and that the economic interests of these members are the same as those of the public generally.
Bagley-Keene Open Meeting Act	p. Commission meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1).
Executive director serves as secretary for commission	q. The executive director of the commission shall serve as secretary to the commission, a nonvoting position, and shall keep the minutes and records of all commission meetings.
Purpose of Commission is to increase travel to & within CA	<p>15372.71. The purpose of the commission is to increase the number of persons traveling to and within California.</p> <p>15372.72.</p>
Commission is independent CA nonprofit mutual benefit corporation	a. The commission is a separate, independent California nonprofit mutual benefit corporation. Except as provided in Section 15372.73, the staff of the commission shall be employees solely of the commission, and the procedures adopted by the commission shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).
Within 6 months the commission shall adopt operation procedures	b. Not later than six months following the initial referendum, the commission shall adopt procedures concerning the operation of the commission in order to provide due process rights for assessed businesses.
If commission fails to adopt procedures	<p>c. In the event that the commission fails to adopt the procedures described in subdivision (b) within the specified time frame, the secretary shall adopt procedures for use by the commission until the commission adopts its own procedures. These procedures shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1), whether adopted by the commission or secretary.</p> <p>15372.73.</p>
Administered by executive director	a. The commission shall be administered by an executive director. That individual shall be a tourism industry marketing professional, recommended by a vote of the commissioners and approved by the Governor. The executive director shall serve at

Executive director responsibilities	the pleasure of both the commissioners and the Governor. b. The executive director shall report to and receive overall guidance from the commission, and shall implement the commission's tourism marketing plan. The executive director shall report to the secretary for day-to-day managerial and financial responsibilities.
Executive director shall serve simultaneously as the director of the Office	c. The executive director shall serve simultaneously as the director of the office, with the title of Deputy Secretary of Tourism of the Trade and Commerce Agency, and that individual shall be an exempt employee, employed by the state. So long as the commission is in existence, the only director of the office shall be the executive director of the commission. Notwithstanding any other provision of law, the executive director may supervise both employees of the commission and employees of the office, notwithstanding the fact that the commission employees are employees solely of the commission.
Salary determined by commission and approved by secretary	d. The salary and benefits of the executive director shall be determined by the commission, and approved by the secretary, based upon industry standards for a director of a marketing budget of similar size. The entire salary and all benefits of the executive director shall be paid from assessments.

15372.74.

The commission shall provide a report on all activities to assessed businesses	a. (1) The commission shall annually provide to all assessed businesses a report on the activities and budget of the commission including, but not limited to, income and expenses, the fund balance, a summary of the tourism marketing plan, and a report of progress in achieving the goals set forth in the plan. The portions of the report that pertain to the commission's income and expenses and the fund balance, as well as those other portions that the commission may from time to time deem appropriate, shall be audited by independent accountants retained by the commission for this purpose. (2) The commission's annual budget shall be subject to the review and approval of the secretary. However, any decision of the secretary related to the budget may be overridden by a vote of three-fifths or more of the commissioners then in office.
Report on assessment percentage	b. The commission shall maintain a report on the percentage assessment allocation between industry categories and industry segments. The report shall also specify the reasons and methodology used for the allocations. This report shall be updated every time the assessment allocations are amended. The report shall be made available to any assessed business.

15372.75.

Marketing plan	a. The commission shall annually prepare, or cause to be prepared, a written marketing plan. In developing the plan, the commission shall utilize, as appropriate, the advice and recommendations of the industry marketing advisory committee or committees established pursuant to subdivision (a) of 15372.77. The commission may amend the plan at any commission meeting. All expenditures by the commission shall be consistent with the marketing plan. b. The plan shall promote travel to and within California, and shall include, but not be limited to, the following: <ol style="list-style-type: none"> 1. An evaluation of the previous year's budget and activities. 2. Review of California tourism trends, conditions, and opportunities. 3. Target audiences for tourism marketing expenditures. 4. Marketing strategies, objectives, and targets.
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Commission shall provide notice to each destination marketing organization in CA of the proposed plan and ample time to review and comment on it	<p>5. Budget for the current year.</p> <p>c. Before final adoption of the plan, the commission shall provide each known destination marketing organization in California notice of the availability of the proposed marketing plan and suitable opportunity, which may include public meetings, to review the plan and to comment upon it. The commission shall take into consideration any recommendations submitted by the destination marketing organizations, except that the final determination as to the nature, extent, and substance of the plan shall in all respects rest solely within the ultimate discretion of the commission, except as provided in subdivision (d).</p> <p>d. The final adoption of the plan shall be subject to the review and approval of the secretary. However, any decision of the secretary related to the plan may be overridden by a vote of three-fifths or more of the commissioners then in office.</p>
Adoption of plan may be overridden by 3/5 vote	
Commissioners and employees not liable for good faith activity	<p>15372.76. Commissioners and employees of the commission are not responsible individually in any way whatsoever to any person for liability for any good faith activity of the commission.</p> <p>15372.77.</p>
Commission shall establish one or more advisory committees	<p>a. The commission shall establish one or more industry marketing advisory committees, which may include noncommissioners as members. The industry marketing advisory committees shall be structured so that, in the aggregate, they include, to the maximum extent feasible and reasonable, representation from every geographic region of the state and every segment of the state's travel and tourism industry. The commission shall establish procedures for the operation of the industry marketing advisory committees that will provide appropriate opportunity for every geographic region of the state and every segment of the travel and tourism industry to offer advice and recommendations to the commission relative to the development of its written marketing plan pursuant to Section 15372.75.</p>
Commissioners may establish other committees	<p>b. The commission may also establish from time to time any other committees it deems appropriate, and may appoint noncommissioners to the committees.</p>
Commission may borrow money to carry out provisions of the marketing plan	<p>15372.78. If the commission believes that the administration of the marketing plan will be promoted thereby, the commission may borrow money, with or without interest, to carry out the provisions of the marketing plan, and may hypothecate anticipated assessment collections.</p>
Commission may accept voluntary assessment from any non-assessed business	<p>15372.79. The commission may by written contract accept a voluntary assessment from any person in a travel and tourism related business who is not an assessed business. The contract shall apply solely to the person in question and not to any other person in a travel and tourism related business who is not an assessed business. The contract shall provide that the voluntary assessment be equivalent to the assessment that would be levied if the person were an assessed business under this chapter, shall permit that business to vote on any referendum conducted under this chapter as if that person were an assessed business, and shall have a term concurrent with the effective period of any referendum on which the person votes. Individual voluntary assessments under this section shall be enforceable only under the terms of the respective contracts to which they pertain. This section shall not be construed to preclude donations to, or cooperative marketing activities of any kind with, the commission. Notwithstanding the foregoing, the commission shall not enter into any contract for a voluntary assessment with a person whose primary business is gaming, as defined in Chapter 10 (commencing with Section 330) of Title 9, Part 1 of the Penal Code.</p>

Article 5. Secretary

15372.85.

Marketing declared affected with the public interest

a. The marketing of California tourism is hereby declared to be affected with the public interest. This chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

Police shall collect overdue assessments

b. The police powers shall be used to collect assessments not paid by the deadlines established by the secretary.

15372.86.

Responsibilities of the secretary

a. The following powers shall be the responsibility of the secretary:

1. Call referenda in accordance with the procedures set forth in Article 6 (commencing with Section 15372.100) and certify the results.
2. Collect and deposit assessments.
3. Exercise police powers.
4. Pursue actions and penalties connected with assessments.

Secretary has veto power over commission

b. Except as otherwise specified in this chapter, the secretary shall have veto power over the actions of the commission, following consultation with the commission, only under the following circumstances:

1. Travel and expense costs.
2. Situations where the secretary determines a conflict of interest exists, as defined by the Fair Political Practices Commission.
3. The use of any state funds.
4. Any contracts entered into between the commission and a commissioner.

15372.87.

Commission may be terminated after initial 4 years

a. Except as otherwise specified in Section 15372.111, the commission may be terminated at any time after the initial four years of operation by referendum of the assessed businesses.

Notice of termination

b. Notice of the termination shall be mailed to all assessed businesses.

Upon termination, commission shall continue its existence

c. Upon termination, the commission shall continue its existence as a nonprofit corporation for purposes of winding up its affairs and dissolution.

Upon termination, the CTC shall advise the office

d. Upon termination of the commission established pursuant to this chapter, the California Tourism Commission authorized pursuant to Section 15364.52 shall advise the office, and conduct all other tasks authorized by the California Tourism Policy Act.

Assessed businesses may be required to maintain records of income or sales

15372.88. The secretary may require any and all assessed businesses to maintain books and records that reflect their income or sales as reflected in the assessment, and to furnish the secretary with any information that may, from time-to-time, be requested by the secretary, and to permit the inspection by the secretary of portions of books and records that relate to the amount of assessment.

Information pertaining to assessed businesses obtained by the secretary is confidential

15372.89. Information pertaining to assessed businesses obtained by the secretary pursuant to this chapter is confidential and shall not be disclosed except to a person with the right to obtain the information, any attorney hired by the secretary who is employed to give legal advice upon it, or by court order. Information obtained by the secretary in order to determine the assessment level for an assessed business is exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

Secretary may do the following to carry out Section 15372.86

15372.90. For the purpose of carrying out Section 15372.86, the secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

A person shall not be excused from testifying or producing evidence before the secretary

15372.91. A person shall not be excused from attending and testifying, or from producing documentary evidence, before the secretary in obedience to the subpoena of the secretary pursuant to the authority granted in Section 15372.90 on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, which is required of him or her may tend to incriminate the person or subject that person to a penalty. A natural person shall not, however, be prosecuted or subjected to any penalty on account of any transaction, matter, or thing concerning which he or she may be required to testify, or produce evidence, documentary or otherwise, before the secretary in obedience to a subpoena. A natural person testifying shall not, however, be exempt from prosecution and punishment for perjury committed in so testifying.

Funds may be used to implement the marketing plan and the following:

15372.92. Any funds appropriated to the office may be used to implement the tourism marketing plan specified in Section 15372.75 or, if the commission is not in existence, Section 15364.52. In addition to any other authority for the office to spend funds, state funds may be used for the following: research, conducting and advertising referenda, administration of state funds, policing, collection of assessments, and contracting for assistance in obtaining information on businesses to be assessed.

Office may contract with the commission

15372.93. The office may contract with the commission in order for the commission to undertake marketing activities utilizing state funds, and Section 10295, and Article 4 (commencing with Section 10335) and Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code shall not apply to those agreements.

Article 6. Referendum

15372.100.

Initial referendum shall cover the following:

- a. The initial referendum shall cover, but not be limited to, the following subjects:
1. The proposed assessment level, based upon specified assessment formulae, together with necessary information to enable each assessed business to determine what its individual assent would be.
 2. Election of commissioners.
 3. Whether to have an assessment.

Referendum will be called every 2 years

- b. A referendum shall be called every two years, commencing on the second anniversary of the initial referendum.

The first referendum shall:

- c. The first referendum following the initial referendum shall solely determine the new set of commissioners by adopted resolution. At that referendum, the assessment target shall remain at the same level as utilized in the initial referendum. The assessment formula shall remain the same and the commission shall continue its existence. As used in this article and Article 7 (commencing with Section 15372.105) "assessment level" means the estimated gross dollar amount received by assessment from all assessed businesses on an annual basis, and "assessment formula" means the allocation method used within each industry segment (for example, percentage of gross revenue).

The 3rd referendum will:

- d. Commencing with the third referendum, the commission shall, by adopted resolution, determine the slate of individuals who will run for commissioner. The resolution shall also cover, but not be limited to, the proposed assessment level, based upon specified assessment formulae, together with necessary information to

Commission will deliver the resolution to the secretary and the secretary shall call a referendum	enable each assessed business to determine what its individual assessment would be; and termination of the commission. The resolution may also include an amended industry segment allocation formula and the percentage allocation of assessments between industry categories and segments. The commission may specify in the resolution that a special, lower assessment rate that was set pursuant to subdivision (c) of Section 15372.66 for a particular business will no longer apply due to changes in the unique circumstance that originally justified the lower rate. The resolution may include up to three possible assessment levels, from which the assessed businesses will select one assessment level by p
All businesses shall be sent a ballot for the referendum	e. The commission shall deliver to the secretary the resolution described in subdivision (b) or (c). The secretary shall call a referendum containing the information required by subdivision (b) or (c) plus any additional matters complying with the procedures of subdivision (b) of Section 15372.102.
Multiple assessment rates	f. When the secretary calls a referendum, all assessed businesses shall be sent a ballot for the referendum. Every ballot that the secretary receives by the ballot deadline shall be counted, utilizing the weighted formula adopted initially by the selection committee, and subsequently amended by referendum.
Initial referendum shall be held within 180 days of the Governor's receipt of selection committee report	g. If the referendum includes more than one possible assessment rate, the rate with the plurality of weighted votes shall be adopted. h. The initial referendum shall, if possible, be held within 180 days of receipt by the Governor of the selection committee report, or, if not possible, as soon as practicable thereafter. The secretary shall call the referendum.

15372.101.

The costs of the initial referendum shall:	a. The costs of marketing and promoting the initial referendum shall be provided by private payments. The costs of the initial referendum shall be paid by the office. The office shall coordinate the referendum to ensure that it is unbiased and factually correct. In the event that the initial referendum fails in the first attempt at passage, subsequent attempts at passage of the initial referendum shall be permitted, except that the costs of conducting the subsequent attempts at passage, along with the costs of marketing and promoting those attempts at passage, shall be provided by private payments. Subsequent attempts at passage shall be conducted in the manner specified in this subdivision. In the event that the initial referendum passes, whether on the first attempt at passage or a subsequent attempt at passage, the private payers and the office shall be reimbursed for all of their respective initial referendum costs from assessments first received.
Ongoing costs paid by Comm	b. The ongoing referendum costs shall be paid by the commission.

15372.102.

Beginning with 3 rd referendum, assessed business may add candidates	a. Commencing with the third referendum, assessed businesses may place on a referendum additional candidates for commissioner, a different assessment level, or both.
Referendum 4 yrs from initial referendum	b. Except for the referendum that occurs four years from the initial referendum, a minimum of 20 percent of the assessed businesses (calculated by weighted percentages) must signify their agreement to add different assessment levels to the items included in the referendum. For the referendum occurring four years from the initial referendum, a minimum of 10 percent of the assessed businesses (calculated by weighted percentages) must signify agreement.
Adding candidates for commissioner	c. A minimum of 10 percent of the assessed businesses (calculated by weighted percentages) must signify their agreement to add candidates for commissioner to the items included in the referendum.

15372.103.

Referendum period	a. Upon receipt of the resolution required by Section 15372.100, including any assessed business referendum request pursuant to Section 15372.102, the secretary shall establish a referendum period not to exceed 60 days. If the secretary determines that the referendum period so established does not provide sufficient time for the balloting, the secretary may extend the referendum period not more than 15 additional days. At the close of the referendum period, the secretary shall count and tabulate the ballots filed during the referendum period.
Deadline for adoption of resolution	b. The secretary shall establish a deadline for adoption of the resolution described in subdivision (a). If the commission fails to meet this deadline, or if the adopted resolution fails to meet the requirements of this chapter, then assessed businesses may present a slate of candidates to the secretary not later than 60 days following the deadline established for the commission resolution. A minimum of 10 percent of weighted voters must sign the document presenting the slate.
If secretary does not receive resolution ...	c. In the event that the secretary does not receive a resolution required by Section 15372.100 from the commission by the deadline established pursuant to subdivision (b) or the resolution does not comply with the requirements of this chapter and the assessed businesses fail to present a slate pursuant to subdivision (b), then the secretary shall select a slate of commissioners and this slate, added to any assessed business referendum requests pursuant to Section 15372.102, shall constitute the items included in the referendum.

15372.104.

Each assessed business is entitled to a weighted vote as follows:	a. Each assessed business is entitled to a weighted vote in each referendum. In calculating weighted votes, each assessed business receives a vote equal to the relative assessment paid by that business. An assessed business paying nine hundred dollars (\$900) in annual assessments has three times the weighted vote of a business paying three hundred dollars (\$300). Weighted votes are used to determine all issues on the referendum. The initial referendum, and any referendum item to terminate the commission, must be approved by a majority of the weighted votes cast at the referendum. The amount of assessment and selection of commissioners is determined by the most weighted votes, whether or not there is a majority.
For purposes of voting in any referendum	b. For purposes of voting in any referendum, each assessed business is part of one industry category and one industry segment, and for voting purposes only, a business with revenue in more than one industry category or industry segment shall only be included in the category and segment in which it earns the most gross revenue.
Each business may vote for each item, but only for the commissioners in its category	c. Each assessed business is eligible to vote for each item on the referendum, except that an assessed business can only vote for commissioners representing its industry category, and industry segment formulae for its industry segment.
Ineligible to vote unless all assessments are paid	d. A business is not eligible to vote unless it has paid all assessments and fines outstanding as of a date established by the secretary.

Article 7. Assessments

15372.105.

Each category will establish a committee to determine the following:	a. Each industry category shall establish a committee to determine the following within its industry category: industry segments, assessment formula for each industry segment, and any types of business exempt from assessment. The initial segment committees shall consist of the subcommittee for that category as described in subdivision (c) of Section 15372.66. Following approval of the assessment by referendum, the committees shall be selected by the commission,
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	based upon recommendations from the tourism industry. Committee members need not be commission members.
Committee recommendations	b. The committee recommendations shall be presented to the commission or selection committee, as applicable. The selection committee may adopt a resolution specifying some or all of the items listed in subdivision (a), plus an allocation of the overall assessment among industry categories. The commission may adopt a resolution specifying one or more of the items listed in subdivision (a), plus an allocation of the proposed assessment. The selection committee and commission are not required to adopt the findings of any committee.
Initial industry category and segment allocations included in selection committee report - changes in allocation formula may be recommended to the commission by segment committee at the biennial meeting	c. The initial industry category and industry segment allocations shall be included in the selection committee report required by subdivision (b) of Section 15372.66. Changes to the industry segment allocation formula may be recommended to the commission by a segment committee at the biennial commission meeting scheduled to approve the referendum resolution pursuant to Section 15372.100. At the same meeting, the commission may amend the percentage allocations among industry categories. Any item discussed in this section that is approved by resolution of the commission, except amendments to the percentage allocations among industry categories, shall be placed on the next referendum, and adopted if approved by the majority of weighted votes cast.
Office will mail assessment bill to businesses.	d. Upon approval by referendum, the office shall mail an assessment bill to each assessed business. The secretary shall determine how often assessments are collected, based upon available staffing resources. The secretary may stagger the assessment collection throughout the year, and charge businesses a prorated amount of assessment because of the staggered assessment period. The secretary and office shall not divulge the amount of assessment or weighted votes of any assessed businesses, except as part of an assessment action.
Business may appeal assessment	e. An assessed business may appeal an assessment to the secretary based upon the fact that the business does not meet the definition established for an assessed business within its industry segment or that the level of assessment is incorrect. An appeal brought under this subdivision shall be supported by substantial evidence submitted under penalty of perjury by affidavit or declaration as provided in Section 2015.5 of the Code of Civil Procedure. If the error is based upon failure of the business to provide the required information in a timely manner, the secretary may impose a fee for reasonable costs incurred by the secretary in correcting the assessment against the business as a condition of correcting the assessment.
Business may pass assessment to customers	f. Notwithstanding any other provision of law, an assessed business may pass on some or all of the assessment to customers. An assessed business that is passing on the assessment may, but shall not be required to, separately identify or itemize the assessment on any document provided to a customer. Assessments levied pursuant to this chapter and passed on to customers are not part of gross receipts or gross revenue for any purpose, including the calculation of sales or use tax and income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.
Calculating assessment for businesses with revenue in more than one category or segment	g. For purposes of calculating the assessment for a business with revenue in more than one industry category or industry segment, that business may elect to be assessed based on either of the following: <ol style="list-style-type: none"> 1. The assessment methodology and rate of assessment applicable to each category or segment, respectively, as it relates to the revenue that it derives from that category or segment. 2. With respect to its total revenue from all industry categories or segments, the assessment methodology and rate of assessment applicable to the revenue in the category and segment in which it earns the most gross revenue.

Initial assessment level	15372.106. The initial assessment level shall be the amount that the selection committee recommends in its report to the Governor pursuant to Section 15372.66, which may be less than twenty-five million dollars (\$25,000,000). This assessment level is a target, and shall serve as the basis for setting application of the assessment formulae, but the actual amount of collected assessments may be more or less than the assessment level.
Assessments used to fund Sections 15372.71 and 15372.92	15372.107. Assessments may be used in furtherance of the purposes set forth in Section 15372.71, or to fund the costs pursuant to Section 15372.92. Assessments may be used to fund these costs regardless of whether the work was performed by the office or commission.
<i>SEC.15372.108 is repealed by AB 1586</i>	
	15372.109.
Secretary shall establish list, collect, police & enforce assessments	a. The secretary shall establish a list of businesses to be assessed and the amount of assessment owed by each. The secretary shall collect the assessment from all assessed businesses, and in collecting the assessment the secretary may exercise the police powers and bring enforcement actions.
Funds shall be deposited into commission account	b. Funds collected by the secretary shall be deposited into the account of the commission. This account shall not be an account of the state government.
State assessment costs reimbursed by Commission	c. Any costs relating to the collection of assessments incurred by the state shall be reimbursed by the commission.
	15372.110.
Office shall develop list of CA businesses	a. The office shall develop a list of California businesses within each segment included within the report required by subdivision (b) of Section 15372.66, periodically updated. Other state agencies shall assist the office in obtaining the names and addresses of these businesses.
Office shall mail form	b. The office shall mail to each business identified pursuant to subdivision (a) a form requesting information necessary to determine the assessment for that business. Any business failing to provide this information in a timely manner shall be assessed an amount determined by the secretary to represent the upper assessment level for that segment.
Office shall establish collection procedure	c. The office, in consultation with the commission, shall establish by regulation the procedure for assessment collection.
	15372.111.
Funding for commission is cooperative	a. Funding for the commission is a cooperative venture. Because of the benefits that accrue to the state and to its residents by virtue of having the travel and tourism industry participate cooperatively with the state for the purpose of effectively marketing travel and tourism to and within the state, it is the intent of the Legislature that the state shall be responsible for appropriating a minimum of seven million three hundred thousand dollars (\$7,300,000) each fiscal year for travel and tourism, and the industry shall be responsible for targeting the level of assessments for each fiscal year at the amount determined to be appropriate by the commission and approved by referendum. However, that assessment level shall ultimately reach at least twenty-five million dollars (\$25,000,000). The industry may terminate the commission by referendum at any time, including during the initial four years, if

Funds annually audited Assessed funds under control of the commission	<p>the state fails to appropriate seven million three hundred thousand dollars (\$7,300,000) in any fiscal year,</p> <p>b. The assessed funds shall be audited annually.</p> <p>c. The assessed funds shall be under the control of the commission, which shall spend the funds consistent with commission policies and the tourism marketing plan. The state shall have no interest in the fund except the general state interest that the state has in nonprofit corporations.</p>
Assessments levied is due and payable to the secretary	15372.112. Any assessment levied as provided in this chapter is a personal debt of every person so assessed and shall be due and payable to the secretary. If any assessed person fails to pay any assessment, the secretary may file a complaint against the person in a state court of competent jurisdiction for the collection of the assessment.
If a business fails to pay assessment:	15372.113. If any assessed business that is duly assessed pursuant to this chapter fails to pay to the secretary the assessed amount by the due date, the secretary may add to the unpaid assessment an amount not to exceed 10 percent of the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment. In addition to payment for the cost of enforcing a collection, the assessed business shall pay to the secretary a penalty equivalent to the lesser of either the maximum amount authorized by Section 1 of Article XV of the California Constitution or 5 percent for each 30 days the assessment is unpaid, prorated over the days unpaid, commencing 30 days after the notice has been given to the assessed business of his or her failure to pay the assessment on the date required, unless the secretary determines, to his or her satisfaction, that the failure to pay is due to reasonable cause beyond the control of the assessed business.
The secretary may require a deposit from assessed	<p>15372.114. The secretary may require assessed businesses to deposit with him or her in advance the following amounts:</p> <p>a. An amount for necessary expenses.</p> <p>b. An amount that shall not exceed 25 percent of the assessment to cover costs that are incurred prior to the receipt of sufficient funds from the assessment.</p> <p>c. The amount of any deposit that is required by the secretary shall be based upon the estimated assessment for the assessed business.</p>
In lieu of advance deposits the secretary may receive and disburse contributions made by assessed businesses	15372.115. In lieu of requiring advance deposits pursuant to Section 15372.114, or in order generally to provide funds for defraying administrative expenses or the expenses of implementing the tourism marketing plan until the time that sufficient moneys are collected for this purpose from the payment of the assessments that are established pursuant to this chapter, the secretary may receive and disburse for the express purposes contributions that are made by assessed businesses. If, however, collections from the payment of established assessments are sufficient to so warrant, the secretary shall authorize the repayment of contributions, or authorize the application of the contributions to the assessment obligations of persons that made the contributions.
At termination of commission, remaining funds will be returned by secretary to businesses from which they were collected	15372.116. Upon termination of the commission, any remaining funds that are not required by the secretary to defray commission expenses shall be returned by the secretary upon a pro rata basis, to all persons from whom the assessments were collected unless the secretary finds that the amounts to be returned are so small as to make impractical the computation and remitting of the pro rata refund to the appropriate persons. If the secretary makes a finding that returning the remaining funds would be impractical, he or she may use the moneys in the fund to defray the costs of the office.

Unclaimed funds	<p>15372.117. Any check or warrant that is drawn against the funds of the commission that remains unclaimed or uncashed for a period of six months from the date of issuance shall be canceled and the money retained for disbursement to the original payee or claimant upon satisfactory identification for a period of one year from the time the check or warrant is canceled. The money so retained, if not claimed within the period of one year, shall be used for administration of the commission, and in furtherance of the tourism marketing plan.</p>
Amended by AB 1586	<p>A business is exempt from the assessments provided for in this chapter if any of the following apply:</p> <p>(a) The business is a travel agency or tour operator that derives less than 20 percent of its gross revenue annually from travel and tourism occurring within the state. A travel agency or tour operator that qualifies for this exemption may participate is an assessed business by paying an assessment calculated on the same basis applicable to other travel agencies or tour operators, respectively, and by filing a written request with the secretary indicating its desire to be categorized as an assessed business.</p>
Travel agent/tour operator exemption	
Small businesses	<p>(b) The business is a small business. For purposes of this section, "small business" means a business location with less than \$1,000,000 in total California gross annual revenue from all sources. A business exempted pursuant to this subdivision may enter into a contract for voluntary assessments pursuant to Section 15372.79.)</p>
Interstate bus service	<p>(c) The assessments provided for in this chapter shall not apply to the revenue of regular route intrastate and interstate bus service: provided, however, that this subdivision shall not be deemed to exclude any revenue derived from bus service that is of a type that requires authority, whether in the form of a certificate of public convenience and necessity, or a permit, to operate as a charter-party carrier of passengers pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code.</p>
Article 8. Actions and Penalties	<p>15372.120. Any action for any penalty or other remedy that is prescribed under any provision of this chapter shall be commenced within three years from the date of the alleged violation.</p>
<i>Sec. 15372.121 repealed by AB 1586</i>	
Persons filing false information are liable for up to \$10,000 in addition to assessment	<p>15372.122. Any person who files false information concerning an assessment is civilly liable in an amount of not more than ten thousand dollars (\$10,000), in addition to any amount owed as the assessment.</p>
Secretary may determine the amount of deficiency and any penalty	<p>15372.123.</p> <p>a. When the secretary makes a determination that an assessment is deficient as to the payment due, the secretary may determine the amount of the deficiency, including any applicable penalty, as provided in this chapter. After giving notice that a deficiency determination is proposed and an opportunity to file a report or provide supplemental information is provided, the secretary may make one or more deficiency determinations of the amount due for any reporting period based on information in the secretary's possession. When an assessed business is discontinued, a deficiency determination may be made at any time thereafter as to the liability arising out of the operation of that business.</p>

Secretary will give notice of deficiency by mail	b. The secretary shall give notice of the proposed deficiency determination and the notice of deficiency determination by mailing a copy of the deficiency to the assessed business at the current address for that business on file with the secretary. The giving of notice is complete at the time of deposit in the United States mail. In lieu of mailing, a notice may be served personally by delivering it to the person to be served.
Notice of deficiency will be given within 4 years of accrual of deficiency Person may petition deficiency within 30 days of it being served	c. Except in the case of fraud or failure to file required information, a notice of a deficiency determination shall be given within four years of the accrual of the deficiency. d. The person against whom a deficiency determination is made may petition the secretary for redetermination within 30 days after the serving of the notice of deficiency determination. If a petition is not filed within 30 days, the deficiency determination shall become final.
Petition for redetermination will include the following:	e. A petition for redetermination shall be in writing, state the specific grounds upon which it is based, and be supported by applicable records and declarations under penalty of perjury that the information supporting the petition is accurate and complete. If a petition for redetermination is duly filed, the secretary shall reconsider the deficiency determination and may grant a hearing thereon. The secretary shall, as soon as practicable, make an order on redetermination, which shall become final 30 days after service of notice of the order of redetermination upon the petitioner. The notice of the order shall be served in the same manner as the notice of the original deficiency determination.
If amount due from deficiency or redetermination is not paid within specified time, the secretary may file with the Superior Court in Sacramento County within 4 yrs	f. If any amount required to be paid pursuant to a deficiency determination or redetermination is not paid within the time specified in the notice thereof, the secretary may, within four years thereafter, file in the Superior Court in the County of Sacramento, or the superior court in any other county, a certificate specifying the amount required to be paid, the name and address of the person liable as it appears on the records of the secretary, and a request that judgment be entered against the person in that amount 30 days after the filing. Notice of the filing shall be given in the same manner as for the notice of deficiency determination. The court shall enter a judgment in conformance with the secretary's certificate 30 days after its filing, unless a petition for judicial review has been filed within the 30-day period.
Abstract of judgment may be filed in any county which constitutes a lien	g. An abstract of the judgment, or a copy thereof, may be filed with the county recorder of any county. From the time of filing of the judgment, the amount of the judgment constitutes a lien upon all of the property in the county owned by the judgment debtor. The lien has the force, effect and priority of a judgment lien and shall continue for 10 years from the date of the judgment, unless sooner released or otherwise discharged. The lien imposed by this section is not valid insofar as personal property is concerned against a purchaser of value without actual knowledge of the lien.
Execution issued upon judgment - sales held under execution	h. Execution shall issue upon the judgment upon request of the secretary in the same manner as execution may issue upon other judgments, and sales shall be held under execution as prescribed in the Code of Civil Procedure.
Within 30 days of filing with the Superior Court, the person may file for judicial review in Superior Court of Sacramento County	i. The person named in a notice of deficiency determination or redetermination may, within 30 days of the notice of filing with the superior court, file an action for judicial review thereof, as provided herein, in the Superior Court in the County of Sacramento or, with the secretary's consent, the superior court in any other county. As a condition of staying entry of judgment or granting other relief, the court shall require the filing of a corporate surety bond with the secretary in the amount of the deficiency stated in the certificate. In any court proceeding, the certificate of the secretary determining the deficiency shall be prima facie evidence of the fee and the amount due and unpaid.
These provisions are	j. The provisions of this section are supplemental to any other procedures for

supplemental The secretary may file for collection	collection and imposition of fees and penalties provided by this chapter. k. In lieu of proceeding pursuant to this section, the secretary may file a complaint for collection of unpaid assessments as provided by law.
Violation to willfully render false or fraudulent information	15372.124. It is a violation of this chapter for any person to willfully render or furnish a false or fraudulent report, statement, or record that is required by the secretary pursuant to any provision of this chapter.
Any suit brought by the secretary	15372.125. Any suit brought by the secretary to enforce any provision of this chapter, or any regulation, or rule and regulation, that is issued by the secretary shall provide that the defendant pay to the secretary the costs that were incurred by the secretary and by the commission in the prosecution of the action in the event the secretary prevails in the action. Any money that is recovered shall reimburse the account or accounts used to pay the costs.
Article 9. Miscellaneous Civil, criminal action or proceeding for violation	15372.130. In any civil or criminal action or proceeding for violation of any of the following, proof that the act that is complained of was done in compliance with the provisions of this chapter is a complete defense to the action or proceeding:
Cartwright Act	a. The Cartwright Act, Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.
Unfair Practice Act	b. The Unfair Practices Act, Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code. c. Any rule of statutory or common law against monopolies or combinations in restraint of trade.
If any sections found invalid, it will not affect the remaining provisions or applications	15372.131. If any section, sentence, clause, or part of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, that invalidity shall not affect the remaining provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. The Legislature hereby declares that it would have passed this chapter and each section, sentence, clause, and part of this chapter despite the fact that one or more sections, sentences, clauses, or parts of this chapter is declared invalid.
<i>Revenue and Taxation Code</i> <i>Section 19559 - repealed by AB 1586</i>	
No reimbursement is required by this act	SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution. Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.
If determined that this act contains state mandated costs, reimbursement shall be made	SEC. 22. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. No reimbursement is required by provisions of this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Provisions of this act become operative the same date the act takes effect

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Legislature declares this act furthers the purposes of the Political Reform Act of 1974

SEC. 24. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.